



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-820]

#### **Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico: Final Results of the 2020-2021 Administrative Review**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that the respondents selected for individual examination, respectively, International Greenhouse Produce, S.A. de C.V. (IGP) and Negocio Agrícola San Enrique, S.A. de C.V. (NASE) (collectively, respondents), were in compliance with the terms of the 2019 Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico (2019 Agreement) during the period of review (POR) from September 1, 2020, through August 31, 2021, except for certain instances of inadvertent or inconsequential noncompliance. Commerce also determines that the 2019 Agreement met the applicable statutory requirements during the POR.

**DATES:** Applicable [Insert Date Of Publication In The Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Sally C. Gannon or David Cordell, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0162 or (202) 482-0408, respectively.

#### **SUPPLEMENTARY INFORMATION:**

Background

On October 7, 2022, Commerce published the *Preliminary Results* of this administrative review.<sup>1</sup> On November 7, 2022, a member of the U.S. petitioning industry, the Florida Tomato Exchange (FTE), and IGP filed case briefs.<sup>2</sup> On November 18, 2022, FTE filed a rebuttal brief and the respondents filed a joint rebuttal brief.<sup>3</sup> On January 23, 2023, Commerce extended the deadline for the final results to March 6, 2023.<sup>4</sup>

#### Scope of 2019 Agreement

The merchandise subject to this 2019 Agreement is all fresh or chilled tomatoes (fresh tomatoes) which have Mexico as their origin, except for those tomatoes which are for processing. For purposes of this 2019 Agreement, processing is defined to include preserving by any commercial process, such as canning, dehydrating, drying, or the addition of chemical substances, or converting the tomato product into juices, sauces, or purees. In Appendix F of this 2019 Agreement, Commerce has outlined the procedure that Signatories must follow for selling subject merchandise for processing. Fresh tomatoes that are imported for cutting up, not further processing (*e.g.*, tomatoes used in the preparation of fresh salsa or salad bars), are covered by this 2019 Agreement. Commercially grown tomatoes, both for the fresh market and for processing, are classified as *Lycopersicon esculentum*. Important commercial varieties of fresh tomatoes include common round, cherry, grape, plum, greenhouse, and pear tomatoes, all of which are covered by this 2019 Agreement. Tomatoes imported from Mexico covered by this 2019 Agreement are classified under the following subheading of the Harmonized Tariff Schedules of the United States (HTSUS), according to the season of importation: 0702.

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<sup>1</sup> See *Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes From Mexico; Preliminary Results of 2020–2021 Administrative Review*, 87 FR 60994 (October 7, 2022) (*Preliminary Results*).

<sup>2</sup> See FTE's Letter, "Case Brief on Behalf of the Florida Tomato Exchange," dated November 7, 2022; IGP's Letter, "Case Brief of International Greenhouse Produce, S.A. de C.V.," dated November 7, 2022.

<sup>3</sup> See FTE's Letter, "Rebuttal Brief on Behalf of the Florida Tomato Exchange," dated November 18, 2022; Respondents' Letter, "Rebuttal Brief of International Greenhouse Produce, S.A. de C.V. and Negocio Agrícola San Enrique S.A. de C.V.," dated November 18, 2022.

<sup>4</sup> See Memorandum, "Extension of Deadline for Final Results of the Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico (2019 Agreement)," dated January 23, 2023.

Although this HTSUS number is provided for convenience and customs purposes, the written description of the scope of this Agreement is dispositive.

A full description of the scope of the order is also contained in the Issues and Decision Memorandum.<sup>5</sup>

### Analysis

Commerce continues to find, based on record evidence, that the selected respondents, IGP and NASE, were generally in compliance with the terms of the 2019 Agreement during the POR, with the exception of certain inconsequential or inadvertent non-compliance. We intend to consult with the Signatories to the 2019 Agreement under Section VII.G (Operations Consultations) to address the non-compliance identified in the review. Overall, Commerce finds that there have been no material or consequential violations of the 2019 Agreement by the selected respondents during the POR. We also determine that the 2019 Agreement is preventing price suppression or undercutting and can be effectively monitored.

The issues raised in the case and rebuttal briefs are addressed in the accompanying Issues and Decision Memorandum and business proprietary memorandum.<sup>6</sup> The issues are identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### Notification Regarding Administrative Protective Order

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<sup>5</sup> See Memorandum, "Decision Memorandum for the Final Results of the 2020-2021 Administrative Review: Fresh Tomatoes from Mexico," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>6</sup> *Id.*; see also Memorandum, "Final Analysis of Proprietary Information and Argument Regarding International Greenhouse Produce, S.A. de C.V.," dated concurrently with, and hereby adopted by, this notice.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 19 CFR 351.221(b)(5).

Dated: March 6, 2023.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.

## **APPENDIX**

### **Issues and Decision Memorandum**

- I. Summary
- II. Scope of the Agreement
- III. Background
- IV. Discussion of the Issues
  - 1. Calculation Methodology for Analysis of Compliance with Section VI of the 2019 Agreement
  - 2. Classification of Certain U.S. Sales
  - 3. Alleged Violations of the 2019 Agreement and Requests for Enforcement
  - 4. Reporting Regarding Certain Transactions
  - 5. Adjustments Under Appendix D Based on an Inspection Requested by a Downstream Customer
  - 6. Request for Collection of Cost Data in Future Reviews
- V. Recommendation

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